

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

**BASILE DASKALAKIS,**

**Plaintiff,**

**v.**

**OKLAHOMA STATE OF, et al,**

**Defendants.**

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**Case No. CIV-13-406-M**

**REPORT AND RECOMMENDATION**

Plaintiff, a prisoner appearing pro se, has filed this action under 42 U.S.C. § 1983 alleging various violations of his constitutional rights. Chief United States District Judge Vicki Miles-LaGrange has referred the matter to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. § 636(b)(1)(B). Currently before the undersigned is Plaintiff's motion to proceed *in forma pauperis*. ECF No. 2. For the following reasons, it is recommended that the motion be **DENIED**.

On April 30, 2013, the undersigned entered an Order to Plaintiff to Cure Deficiencies, ECF No. 6, advising Plaintiff that he had failed to submit a proper motion to proceed *in forma pauperis* and directing him to cure the deficiencies noted in the Order on or before May 17, 2013. A review of the electronic docket for the State of Oklahoma shows that he was detained in Garfield County immediately prior to his current place of confinement. Accordingly, his effort to cure is inadequate due to his failure to supply a certification that covers the entire previous six month period as required. Accordingly, the undersigned finds that the motion should be denied.

It is therefore recommended that Plaintiff's Motion to Appear *In Forma Pauperis*, **ECF No. 2**, be **DENIED**. It is further recommended that this action be dismissed

without prejudice unless Plaintiff pays the full filing fee within twenty (20) days of any order adopting this Report and Recommendation. Plaintiff is advised of his right to file an objection to this Report and Recommendation with the Clerk of Court by **June 12, 2013**, in accordance with 28 U.S.C. § 636 and Fed.R.Civ.P. 72. In light of this recommendation, it is recommended that the motions contained in **ECF No. 3 and 7**, be **DENIED** because at this point the action is only conditionally filed, and the Court cannot take any action until and unless Plaintiff is granted leave to file in forma pauperis or pays the entire filing fee.<sup>1</sup> Plaintiff is further advised that any failure to make timely objection to this Report and Recommendation waives the right to appellate review of the factual and legal issues addressed herein. *Moore v. United States*, 950 F.2d 656 (10<sup>th</sup> Cir. 1991).

This Report and Recommendation **disposes of all issues** referred to the undersigned Magistrate Judge in the captioned matter.

**ENTERED** on May 23, 2013.

  
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SHON T. ERWIN  
UNITED STATES MAGISTRATE JUDGE

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<sup>1</sup> The undersigned notes that ECF No. 7 requests the Court to issue a subpoena to the Garfield County Detention Center requiring it to provide his financial statement. However, the Court has no jurisdiction to issue the subpoena in this conditionally filed action. Plaintiff is responsible for acquiring the information required to support his application to appear in forma pauperis. He has made no showing with regard to his efforts to obtain this information.